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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/516,328 03/01/00 PREVEY III

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EXAMINER

Mark F Smith  
Smith, Guttag & Bolin Ltd  
10921 Reed Hartman Highway  
Suite 316  
Cincinnati OH 45242

COMPTON, F

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No. 09/516,328	Applicant(s) Prevey III
Examiner Eric Compton	Group Art Unit 3726



Responsive to communication(s) filed on \_\_\_\_\_

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 1-25 is/are pending in the application

Of the above, claim(s) 20-25 is/are withdrawn from consideration

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-19 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election with traverse of Invention I, claims 1-19, in Paper No. 3 is acknowledged. The traversal is on the ground(s) that the search of inventions I and II can be made without serious burden, since the turbine blase of Invention II is formed using the method of claim 1 of Invention I. This is not found persuasive because product-by-process claims are not construed as being limited to the product formed by the specific process recited. *In re Hirao* 535 F2d 67 n.3, 190 USPQ 15 n.3 (CCPA 1976), The examiner set fourth another process by which the turbine blades can be made and the applicant submitted no evidence that would indicate that the turbine blade cannot be made as stated by the examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 20-25 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 3.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8, and 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,826,453 to Prevey, III.

Regarding claims 1, and 11, Prevey, III discloses a method of inducing a layer of compressive stress in the surface of a part comprising:

1. defining a surface area for receiving compressive stress (see claim 1, first limitation).
2. selecting the magnitude of the compression and residual stress distribution to be induced in the surface of the selected region (see stress distribution and % cold work, in Figures 5-7);
3. exerting pressure against the surface of the selected region, the pressure being applied on a selected pattern along the surface to form zones of deformation having a deep layer of compressive stress; (see claim 2, second limitation).
4. "The burnish operation is then controlled by a *conventional electronic control unit*, not shown, which controls the movement of the workpieces or the movement of the burnishing head. In another preferred embodiment of the invention as shown in FIG. 4, the adjustment screw is replaced by a follower rod 180 of a cylinder piston assembly 182. By moving the follower rod 180 inwardly or outwardly, the spring tension is correspondingly increased or decreased and pressure or compressive force applied by the burnishing ball 114 to the surface 178 of the workpieces is correspondingly adjusted" (col 6-7, lines 59-3). This can be considered varying the

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the pressure being exerted against the surface to produce a desired stress distribution and magnitude of compression within the surface. Programming the control unit is noted in col 3, first paragraph.

Regarding claim 2, as shown in Figure 1, the pressure being exerted against the surface of the part if performed by a burnishing operation.

Regarding claims 3-4 and 12-13, Prevey, III, discloses, “it has been unexpectedly found that by cold working the surface less than about 3.5%, and preferably less than about 2.0%, results in longer retention of compressive residual stress at elevated temperatures, less rapid relaxation under cyclic loading and minimizes the alteration of the residual stress field during tensile or compressive overload than conventional cold working and surface hardening processes” (col 7, lines 37-45).

Regarding claim 6, “The burnishing means is then passed in a predetermined pattern across the area to be burnished such that zones of deformation formed by each pass of the burnishing means do not overlap” (col 5, lines 4-7). The method is to be used for burnishing complex curved surfaces. Therefore spacing will have to change accordingly as the slope gradient of the surface changes, as in the case of a curved surface having a non-linear profile.

Regarding claim 8, as shown in Figure 5a with respect to single point burnishing, a more shallow layer of compressive stress is induced within the surface (at a depth of 1.0 mm) of the part than near the surface (at a depth of 0.25 mm) of the part.

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Regarding claim 10, Prevey III, discloses implementing the burnishing process on complex work surfaces such as found on dovetail slots for turbine or compressor disk used in turbo machinery (col 8, lines 4-8).

Regarding claim 15, it is disclosed that “It has been unexpectedly found that the single-point burnishing method, applied in a single pass, *or multiple passes of reduced compressive force*, is effective for producing compressive residual stresses following tensile deformation of the surface to produce deep compression with minimal cold working” (col 5, lines 7-12).

Regarding claim 16, Prevey, III discloses an apparatus (100) for inducing compressive stress in the surface of a part comprising: a burnishing member (114); a socket (108) having an inner chamber (134) and a seat (110) for receiving the burnishing member; means for applying force against the burnishing member for exerting pressure against the surface of the part (138); means for providing constant volume to the fluid to the inner chamber (an external fluid supply); wherein the socket provides clearance between the seat and the burnishing member for permitting fluid to pass.

Regarding claims 7 and 17, “By further adjusting the fluid pressure, a desired amount of lubrication fluid will penetrate around the burnishing ball 114 and flow out through the fluid channels 148 in the retaining edge 146 to be transferred onto the surface 178 of the workpiece 144 to provide the desired lubrication and cooling for the burnishing operation. The proper pressure or compressive force to be applied to the surface 178 of the workpiece 144 during the burnishing operation is provided by carefully tightening or loosening the adjustment screw 162”

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(col 6, lines 37-46). “Accordingly, the pressure of the compressive force exerted by the burnishing ball 114 can be precisely regulated” (col 6, lines 56-58). It is inherent that some means is provided for monitoring and adjusting the fluid pressure from the external surface, such that the compressive force can be precisely regulated.

Regarding claims 5, 14, 18 and 19, it is further disclosed that, “The burnish operation is then controlled by a conventional electronic control unit, not shown, which controls the movement of the workpieces or the movement of the burnishing head. In another preferred embodiment of the invention as shown in FIG. 4, the adjustment screw is replaced by a follower rod 180 of a cylinder piston assembly 182. By moving the follower rod 180 inwardly or outwardly, the spring tension is correspondingly increased or decreased and pressure or compressive force applied by the burnishing ball 114 to the surface 178 of the workpieces is correspondingly adjusted” (col 6-7, lines 59-3).

Note: regarding claims 16-19, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9, is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,826,453 to Prevey, III.

Prevey, III discloses the invention as cited above. However, he does not disclose an additional step of removing a layer of material along the surface being in low compression or tension.

Official Notice, is taken that polishing or buffing a workpieces removes a layer of material along the surface of a material. It is also known that polishing and buffing can refine the surface of a workpiece and reduce surface stress levels.

Regarding claim 9, it would have been obvious to one of ordinary skill in the art, at the time of invention, to have polished the workpiece of Prevey, III, in order to remove a layer of material along the surface, in order to reduce surface stress levels in a workpiece.

7. Claims 1-8 and 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prevey, III, in view of JP 62-292,362 to Yonezama et al (KOBE STEEL LTD).

Prevey, III disclose the apparatus as cited above. However, Prevey, III does not specifically disclose varying the pressure being exerted against the surface to produce a desired stress distribution and magnitude of compression along the surface.

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Yonezama et al disclose a burnishing process. "When processing begins [sic], a curved surface roller 5 is first set at point A, a pressure is gradually increased to point B by means of pressure control with a sequencer, kept constant to point B to point C, and gradually lowered from point C to point D reversely" (English Abstract). Figure 1 shows the stress distribution being exerted along the surface of the workpiece.

Regarding claims 1-8, and 10-19, it would have been obvious to one of ordinary skill in the art, at the time of invention, to have varied the pressure being exerted against the surface to produce a desired stress distribution and magnitude of compression within the surface using the method and apparatus of Prevey, III, in light of the teachings of Yonezama et al, in order to burnish a part having different stress distribution requirements.

#### *Prior Art References*

8. The prior art references listed on the enclosed PTO-892, but not used in a rejection of the claims, are cited for their teachings of burnishing methods.

F.R. 2662263 to Gabriel et al, also discloses a method of burnishing wherein the pressure is varied along the surface of the workpiece.

EP 0041248 disclose a method of burnishing. "The tool is located on the piston rod (I) of a hydraulic cylinder used to press the tool against the rollers. The travel of rod (I) is fed into a computer, which also receives a signal representing the fundamental desired rolling pressure ( $S_k$ ), which is fed to the comparator. The comparator output is used in a hydraulic circuit so pressure

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(Sa) is kept at the corrected value (Sk)" (English Abstract). See also the information in the Embodiment Section.

***Contact Information***

9. Official documents related to the instant application may be submitted to the Technology Center 3700 mail center by facsimile at (703) 305-3579/3580. Should Applicant desire to submit a DRAFT response to the Examiner by facsimile transmission, then Applicant should contact the Examiner at the number below for instructions concerning the transmission of DRAFT documents. Applicant is reminded to clearly mark any facsimile transmission as "DRAFT" if it is not to be considered as an official response.

10. Any inquiry concerning this communication should be directed to Examiner Eric Compton at telephone number (703) 305-0240.

*J. Compton*

*Apr 3726*

ebc *E.C.*  
April 5, 2001